

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER NO. R5-2018-XXXX

REQUIRING GRIZZLY LAKE COMMUNITY SERVICES DISTRICT  
DELLEKER WASTEWATER TREATMENT PLANT  
PLUMAS COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER NO. R5-2012-0046  
(NPDES PERMIT NO. CA0081744)

The California Regional Water Quality Control Board, Central Valley Region, (Central Valley Water Board) finds that:

1. On 8 June 2012 the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order No. R5-2012-0046, NPDES Permit No. CA0081744, prescribing WDRs for the Grizzly Lake Community Services District (Discharger) at the Delleker Wastewater Treatment Plant (Facility), Plumas County.
2. WDR Order No. R5-2012-0046 contains Final Effluent Limitations IV.A.1.a., which reads, in part, as follows:

Table 6. Final Effluent Limitations

Parameter	Units	Effluent Limitations			
		Average Monthly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Copper, Total Recoverable	µg/L	5.0	10.1	--	--

3. The effluent limitations specified in Order No. R5-2012-0046 for copper is based on implementation of the California Toxics Rule.
4. California Water Code (CWC) section 13300 states: *"Whenever a regional board finds that a discharge of waste is taking place or threatening to take place that violates or will violate requirements prescribed by the regional board, or the state board, or that the waste collection, treatment, or disposal facilities of a discharger are approaching capacity, the board may require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a violation of requirements."*
5. Federal regulations, 40 CFR 122.44 (d)(1)(i), require that NPDES permit effluent limitations must control all pollutants which are or may be discharged at a level which will cause or have the reasonable potential to cause or contribute to an in-stream excursion above any State water quality standard, including any narrative criteria for water quality. Beneficial uses, together with their corresponding water quality objectives or promulgated water quality criteria, can be defined per federal regulations as water quality standards.

6. When WDRs Order R5-2012-0046 was adopted, in accordance with CWC section 13385(j)(3), the Central Valley Water Board found that, based upon results of effluent monitoring, the Discharger would not be able to consistently comply with the new effluent limitations for copper at Discharge Point 001. These limitations were based on new requirements that became applicable after the effective date of the WDRs, and after 1 July 2000, for which new or modified control measures were necessary in order to comply with the limitation, and new or modified control measures could not be designed, installed, and put into operation within 30 calendar days.
7. Immediate compliance with the final effluent limitations contained in WDRs Order R5-2012-0046 for copper was not possible or practicable, therefore Time Schedule Order (TSO) R5-2012-0047 was adopted and effective on 8 June 2012 and provided the Discharger until 7 June 2017 to develop, submit, and implement methods of compliance and/or construct the necessary treatment plant upgrades to meet the final effluent limitations contained in WDRs Order R5-2012-0046.
8. As of the date of this Order (xx November 2018) immediate compliance with the final effluent limitations contained in Order No. R5-2012-0046 for copper at Discharge Point 001 is still not possible or practicable. The Clean Water Act and the California Water Code authorize time schedules for achieving compliance. The following table summarizes the effluent monitoring data obtained from January 2013 to April 2018 for copper:

Parameter	Units	MEC	Mean	# of Samples	# of Non-Detects
Copper, Total Recoverable	µg/L	9.9	8.7	13	8

<sup>1</sup> 8 of 13 samples were non-detect (MDL ≥40µg/L) and were not used to calculate the MEC or mean

#### **Need for Time Schedule Extension and Legal Basis**

9. On 16 October 2018, the Discharger submitted a request and justification for additional time to achieve compliance with final copper effluent limitations. For compliance with the final effluent limitations for copper, the Discharger anticipates that additional time is necessary to develop a Preliminary Engineering Report (PER) for the Facility and collection system to address ways to optimize the treatment process, analyze treatment alternatives, select an improvement project, and obtain construction funding.
10. This Order provides a time schedule for the Discharger to develop and implement a pollution prevention plan, complete a PER, and/or construct the necessary treatment plant upgrades to meet the final effluent limitations as necessary.



### **Mandatory Minimum Penalties**

11. California Water Code sections 13385(h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties (MMPs) upon dischargers that violate certain effluent limitations. California Water Code section 13385(j)(3) exempts the discharge from mandatory minimum penalties "where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308, if all the [specified] requirements are met."
12. Per the requirements of California Water Code section 13385(j)(3), the Central Valley Water Board finds that:
  - a. This Order specifies the actions that the Discharger is required to take in order to correct the violations that would otherwise be subject to California Water Code sections 13385(h) and (i).
  - b. The Discharger has stated that 5 years is necessary to develop the PER for the Facility and collection system to address ways to optimize the treatment process, analyze treatment alternatives, select an improvement project, and obtain construction funding for treatment plant upgrades if necessary. The Discharger reports that the PER should be completed by October 2019, at which time an improvement project will be selected and construction funding will be pursued.
  - c. This Order establishes a time schedule to bring the waste discharge into compliance with the effluent limitations that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitations.
13. TSO R5-2012-0047 was effective beginning 8 June 2012 and provided protection from MMPs for violations of effluent limitations for copper until 7 June 2017 pursuant to Water Code section 13385, subdivision (j)(3)(A) through (D).
14. Per the requirements of Water Code section 13385(j)(3)(C)(ii)(II), following a public hearing, and upon a showing that the Discharger is making diligent progress toward bringing the waste discharge into compliance with the effluent limitation, the Central Valley Water Board may extend the time schedule for an additional period not exceeding five years in length, if the Discharger demonstrates that the additional time is necessary to comply with the effluent limitation. In accordance with Water Code section 13385, subdivision (j)(3)(C)(ii)(II), the total length of the extended time schedule does not exceed five years in length.
15. The Central Valley Water Board finds that the Discharger has demonstrated due diligence to bring the waste discharge into compliance with final effluent limitations for copper contained in WDRs Order R5-2012-0046 through the following: applying and receiving planning grant money to complete a pollution prevention plan and mixing zone

16. study required in TSO Order R5-2012-0047 and to hire a consultant to develop a PER for the Facility and collection system.
17. Compliance with this Order exempts the Discharger from mandatory minimum penalties for violations of the final effluent limitations for copper found in WDRs Order R5-2012-0046 from **xx November 2018** (the date of this Order) until **XX November 2023**.
18. In accordance with Water Code section 13385(j)(3)(C), the total length of protection from mandatory minimum penalties for the final effluent limitations for copper does not exceed ten years. The initial five-year time schedule as allowed pursuant to Water Code section 13385, subdivision (j)(3)(A) through (D) expired 7 June 2017. An extended time schedule from **XX November 2018 until XX November 2023** is pursuant to Water Code section 13385(j)(3)(C)(ii)(II).
19. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds one year, this Order includes interim effluent limitations and interim requirements and dates for their achievement.
20. The compliance time schedule in this Order includes interim performance-based effluent limitations for copper. Interim effluent limitations consist of a maximum daily effluent concentration derived using sample data provided by the Discharger demonstrating actual treatment plant performance. In developing the performance-based interim AMEL, where there are 10 data points or more and only once per month sampling is required, sampling and laboratory variability is accounted for by establishing interim effluent limitations that are based on normally distributed data where 99.9% of the data points will lie within 3.3 standard deviations (SD) of the mean (Basic Statistical Methods for Engineers and Scientists, Kennedy and Neville, Harper and Row, 3rd Edition, January 1986). When at least 80 percent of the data points are reported as non-detect (ND) values, or if there are less than 10 data points available, the interim AMEL is based on 3.11 times the maximum observed effluent concentration (MEC) when once per month sampling is required. Additionally, if either of these procedures result in an interim AMEL less than the MEC, the MEC is sometimes established as the interim AMEL. The interim MDEL is calculated by applying statistical methods presented in the Technical Support Document for Water Quality-based Toxics Control (March 1991; EPA/505/2-90-001) to determine the maximum expected effluent concentration at a 99% confidence level and 99% probability basis. The following table summarizes the calculation of the interim effluent limitations for copper:

Parameter	Units	# Effluent Samples	Mean	MEC	Interim MDEL	Interim AMEL
Copper, Total Recoverable	µg/L	13 <sup>1</sup>	8.7	9.9	41.6	30.8

<sup>1</sup> 8 of 13 samples were non-detect (MDL ≥40µg/L) and were not used to calculate the MEC, mean, or interim limitations

21. The Central Valley Water Board finds that the Discharger can maintain compliance with the interim effluent limitations included in this Order. Interim effluent limitations are established when compliance with the final effluent limitations cannot be achieved by the

existing Facility. Discharge of constituents in concentrations in excess of the final effluent limitations, but in compliance with the interim effluent limitations, can significantly degrade water quality and adversely affect the beneficial uses of the receiving stream on a long-term basis. The interim effluent limitations, however, establish an enforceable ceiling concentration until compliance with the final effluent limitation can be achieved.

22. If an interim effluent limit contained in this Order is exceeded, then the Discharger is subject to MMPs for that particular exceedance as it will no longer meet the exemption in CWC 13385(j)(3). It is the intent of the Board that a violation of an interim monthly effluent limitation subjects the Discharger to only one MMP for that monthly averaging period. In addition, a violation of an interim daily maximum effluent limit subjects the Discharger to one MMP for the day in which the sample was collected.

#### Other Regulatory Requirements

23. Water Code section 13267 states in part: In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.
24. The Discharger owns and operates the wastewater treatment facility which is subject to this Order. The technical and monitoring reports required by this Order are necessary to determine compliance with the WDRs and with this Order.
25. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) ("CEQA") pursuant to Water Code section 13389, since the adoption or modification of a NPDES permit for an existing source is statutorily exempt and this Order only serves to implement a NPDES permit. (Pacific Water Conditioning Ass'n, Inc. v. City Council of City of Riverside (1977) 73 Cal App 3d 546, 555-556.).
26. On 30 October 2018, Central Valley Water Board staff issued a notice of public hearing and provided a 30-day comment period for consideration of adopting a TSO under section 13300 of the Water Code to establish a time schedule for achieving compliance with waste discharge requirements. The notice stated that any member of the public may request an oral hearing before the Executive Officer, and if no hearing is requested, the Executive Officer's review of the administrative record, including any written comments received shall constitute the public hearing.



**IT IS HEREBY ORDERED THAT:**

1. Pursuant to California Water Code Sections 13300 and 13267, the Discharger shall comply with the following time schedule to submit reports and ensure completion of the compliance project described in Finding 12.b, above:

Task	Compliance Date
Submit and implement a Pollution Prevention Plan (PPP) pursuant to CWC section 13263.3 for copper	1 May 2019
Complete Preliminary Engineering Report (PER)	1 October 2019
Select improvement project based on PER	6 months after Central Valley Water Board approval of PER
Submit application for construction funding	1 year after Central Valley Water Board approval of PER
Submit annual progress reports documenting the steps taken to comply with this Order, describing the completion of tasks, evaluation of the effectiveness of the implemented measures of the PPP, and an assessment of whether additional measures are necessary to meet the final compliance date.	1 September 2019, 1 September 2020, 1 September 2021, 1 September 2022, 1 September 2023

2. Discharge from Discharge Point 001 shall not exceed the following interim effluent limitations. The interim effluent limitations for copper are effective upon adoption of this Order and shall apply in lieu of the corresponding final effluent limitations in WDRs Order R5-2012-0046. The Discharger shall comply with the following interim effluent limitations until **XX November 2023**.

Parameter	Units	Interim MDEL	Interim AMEL
Copper, Total Recoverable	µg/L	41.6	30.8

3. Any person signing a document submitted under this Order shall make the following certification:

*"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*

4. In accordance with California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain work plans for, that describe the conduct of investigations and studies, or that contain technical

conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain the professional's signature and/or stamp of the seal.

5. If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order or with the WDRs may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.
6. Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality)

or will be provided upon request.

This Order is effective upon the date of signature.

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PATRICK PULUPA, Executive Officer

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Date